

# PATENT COOPERATION TREATY

## PCT

### INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

REC'D 23 APR 1999

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Applicant's or agent's file reference GBI0005P	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/US98/11347	International filing date (day/month/year) 03 JUNE 1998	Priority date (day/month/year) 03 JUNE 1997
International Patent Classification (IPC) or national classification and IPC IPC(6): A23K 1/165 and US Cl.: 424/442		
Applicant GANEDEN BIOTECH, INC.		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 3 sheets.
 

☐ This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority. (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of 0 sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☐ Non-establishment of report with regard to novelty, inventive step or industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

Date of submission of the demand  04 JANUARY 1999	Date of completion of this report  06 APRIL 1999
Name and mailing address of the IPEA/US Commissioner of Patents and Trademarks Box PCT Washington, D.C. 20231  Facsimile No. (703) 305-3230	Authorized officer  DIEDRA FAULKNER Telephone No. (703) 308-1235

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/US98/11347

**I. Basis of the report**

1. This report has been drawn on the basis of *(Substitute sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to the report since they do not contain amendments):*

☒ the international application as originally filed.

☒ the description, pages 1-33 , as originally filed.

pages NONE , filed with the demand.

pages NONE , filed with the letter of \_\_\_\_\_.

pages \_\_\_\_\_ , filed with the letter of \_\_\_\_\_.

☒ the claims, Nos. 1-50 , as originally filed.

Nos. NONE , as amended under Article 19.

Nos. NONE , filed with the demand.

Nos. NONE , filed with the letter of \_\_\_\_\_.

Nos. \_\_\_\_\_ , filed with the letter of \_\_\_\_\_.

☒ the drawings, sheets/~~fig~~ NONE , as originally filed.

sheets/~~fig~~ NONE , filed with the demand.

sheets/~~fig~~ NONE , filed with the letter of \_\_\_\_\_.

sheets/~~fig~~ \_\_\_\_\_ , filed with the letter of \_\_\_\_\_.

2. The amendments have resulted in the cancellation of:

☒ the description, pages NONE .

☒ the claims, Nos. NONE .

☒ the drawings, sheets/~~fig~~ NONE .

3. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the ~~Supplemental Box~~ Additional observations below (Rule 70.2(c)).

4. Additional observations, if necessary:

NONE

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/US98/11347

**V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement****1. STATEMENT**

Novelty (N)	Claims <u>1-50</u>	YES
	Claims <u>NONE</u>	NO
Inventive Step (IS)	Claims <u>1-50</u>	YES
	Claims <u>NONE</u>	NO
Industrial Applicability (IA)	Claims <u>1-50</u>	YES
	Claims <u>NONE</u>	NO

**2. CITATIONS AND EXPLANATIONS**

Claims 1-50 meet the criteria set out in PCT Article 33(2) and (3), because the prior art does not teach or fairly suggest the method of preventing or treating bacterial gastrointestinal infection in a human by administering non-pathogenic lactic acid bacteria to an infant at risk for Sudden Infant Death Syndrome. The prior art teaches a useful antibiotic that comprises inhibitory concentrations of microorganisms.

Claims 1-50 meet the criteria set out in PCT Article 33(4), because a method of treating a patient at risk for SIDS by administering a non-pathogenic lactic acid bacteria has industrial applicability .

----- NEW CITATIONS -----  
NONE